IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH AT HYDERABAD

HON'BLE Ms. JUSTICE G. ROHINI

Writ Petition No.17257 of 2006

Dated: December 26, 2006

Between:

Mohinuddin Ahmed, S/o. late Ghulam Mohammed Samadani, Proprietor, Classic Lodge, Situated at 2nd floor, 21 Century Commercial Complex, bearing Mpl.No.5-8-171/A, Nampally, Hyderabad.

... Petitioner

And

State Bank of Hyderabad, Overseas Branch, Somajiguda, (represented by Assets Recovery Branch, Precious Plaza, 4-1-358/1, Hanuman Tekdi, Reddy Hostel Road, Abids, Hyderabad, and others.

... Respondents

Order:

The petitioner seeks a declaration that the action of the respondents in proposing to auction the property in question is illegal and arbitrary.

2. It is pleaded that the petitioner is in possession of the premises bearing No.5-8-171/A, Nampally, Hyderabad, wherein he has been

running a lodge. It is not in dispute that the third respondent has availed certain loan facilities from the first respondent bank by creating mortgage in respect of the said premises as collateral security. The first respondent bank filed O.A.No.555 of 2002 in the Debts Recovery Tribunal, Hyderabad, against the third respondent for recovery of amounts due, which was decreed and a recovery certificate dated 07-04-2004 was issued. Pursuant to the same, impugned auction notice was issued and aggrieved by the same, the writ petitioner filed Claim Petition No.8 of 2006 before the Recovery Officer to exclude the property from the proposed auction. While the Claim Petition was still pending, the present writ petition has been filed with a similar prayer.

3. When the matter is taken up for consideration, none appeared for the petitioner. However, learned counsel for the respondents placed before this court a copy of the order dated 18-08-2006 passed by the Debts Recovery Tribunal in C.P.No.8 of 2006 under which the Claim Petition was dismissed on merits.

4. In the circumstances, the petitioner, if aggrieved, ought to have challenged the order in the Claim Petition by availing appropriate remedy under law.

5. The present writ petition cannot be maintained and the same is accordingly dismissed. No order as to costs.

_____

JUSTICE G. ROHINI.

December 26, 2006
MRR